

Application Serial No.: 10/001,973
Reply to Office Action dated November 5, 2003

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 2-11 and 13-25 are presently active in this case, Claims 11 and 21 having been amended by way of the present Amendment.

Claims 10, 13, 14, and 22-25 have been indicated as being allowed.

Claims 2-9, 11, and 15-21 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Regarding the rejection of Claims 2 and 15, the original specification used the term "dioxine," which was changed by amendment as filed on September 22, 2003, to "dioxin." Thus, Claims 2 and 15 presently refer to "dioxin" as opposed to "dioxine." The Official Action asserts that "dioxin" and "dioxine" are "two entirely different chemical compounds," and thus concludes that the original specification did not describe the claimed invention in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The Applicants respectfully disagree with the assertion that "dioxin" and "dioxine" are "two entirely different chemical compounds, and traverse the conclusion that the original application failed to comply with the written description requirement.

The Applicants submit that the terms "dioxin" and "dioxine" have the same definition, and that the definition is known to those of ordinary skill in the relevant art. The change to the specification was made based upon the Applicants review of a newer edition of

a Japanese-to-English scientific dictionary. According to the Japanese-to-English version of the McGraw-Hill Dictionary of Scientific and Technical Terms, the term “dioxine” is used in the second edition and the term “dioxin” is used in the third edition to define the same Japanese word. Thus, the Applicants amended the specification to reflect the more common English spelling of “dioxin.”

The Applicants note that the term “dioxine” and “dioxin” are synonymous with one another and can be used interchangeably. As evidence of this assertion, the Applicants have attached an Appendix I that is a printout from the National Institute for Occupational Safety & Health (NIOSH) which is part of the U.S. Department of Health and Human Services. The printout is an excerpt from The Registry of Toxic Effects of Chemical Substances for dibenzo - p - dioxin, 2,3,7,8 – tetrachloro, which is a particularly environmentally important dioxin/dioxine. This excerpt sets forth fifteen different synonyms for the compound, in which number nine is “dioxin” and number eleven is “dioxine.” This document suggests that these terms can be used interchangeably.

After an extensive search, the Applicants have been unable to find any documentation that suggests that the terms “dioxin” and “dioxine” have different definitions. The term “dioxin” appears to be the most commonly used spelling in (US) English, while the term “dioxine” appears to be the more commonly used spelling in other languages, such as German.¹ While the term “dioxine” does appear randomly in some English documents, those

¹ For example, a search for “dioxine” using the Google search engine (www.google.com) on the internet produces search results including numerous German language documents, while a search for “dioxin” produces search results including numerous English language documents. Furthermore, utilizing the translation feature on the German language Google search results translates the term “dioxine” in German to “dioxin” in English.

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documents seem to use it interchangeably with the term “dioxin” and do not provide any distinguishing definitions for these terms. During telephone communications between the Applicants’ representative, Christopher Ward, and Examiner Rinehart, Examiner Rinehart identified several patent documents (U.S. Patent Nos. 6,076,476 and 6,116,170; and U.S. Patent Pub. No. 20020027195) that mentioned both “dioxin” and “dioxine.” While the term “dioxine” is randomly used once in each of these documents, these documents appear to use the term interchangeably with the term “dioxine” and do not suggest that these terms differ in any manner. In fact, one possible explanation for the use of the term “dioxine” only once in each of these documents is a mere typographical oversight by the author.

Accordingly, the Applicants respectfully submit that the terms “dioxin” and “dioxine” have the same definition. Thus, the Applicants request the withdrawal of the rejection of Claims 2 and 15, as well as the claims dependent thereon, under 35 U.S.C. 112, first paragraph.

Regarding the rejection of Claims 11 and 21, the Applicants traverse the rejection by noting that support for this language was present in the originally filed specification, for example, in Claim 22 and on page 10, lines 17-19. However, the Applicants have amended Claims 11 and 21 to precisely match the language used in the originally filed specification, for example, in Claim 22 and on page 10, lines 17-19. Thus, the Applicants respectfully request the withdrawal of the rejection of Claims 11 and 21 under 35 U.S.C. 112, first paragraph.

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Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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